

ORIGINAL

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Applications of)
READING BROADCASTING, INC.)
For Renewal of License of)
Station WTVE(TV), Channel 51)
Reading, Pennsylvania)
and)
ADAMS COMMUNICATIONS CORPORATION)
For Construction Permit for a New)
Television Station to Operate on)
Channel 51, Reading, Pennsylvania)
To: Magalie Roman Salas, Secretary
for direction to
The Honorable Richard L. Sippel
Administrative Law Judge

MM Docket No. 99-153

File No. BRCT-940407KE

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

File No. BPCT-940630KG

RESPONSE OF ADAMS COMMUNICATIONS CORPORATION
TO "STATEMENT FOR THE RECORD"

1. Adams Communications Corporation ("Adams") hereby responds to the "Statement for the Record" ("Statement") filed in the above-captioned proceeding by Reading Broadcasting, Inc. ("RBI") on October 27, 2000.

2. RBI's Statement is subject to several potential objections. The Statement was not accompanied by a motion or request for leave to file. RBI believes that it has an absolute right to file its Statement whenever it chooses. Adams is not confident that RBI is correct in that regard.

3. This is particularly so in light of the fact that the record of this proceeding was closed several months prior to the submission of RBI's Statement. Order, FCC 00M-52, released

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August 18, 2000. In order for RBI to include any further information in the record, RBI should request that the record be re-opened for the limited purpose of receiving the proffered information. RBI has failed to do so. Thus, even if RBI were absolutely entitled to file its Statement at any time, that Statement is plainly ineffective unless the record is reopened for inclusion of the Statement.

4. Further, RBI has failed to explain why it delayed until late October to submit materials which had been available to RBI for more than two months. The three pleadings which RBI seeks to bring to the Court's attention were filed on July 25, August 9 and August 23. The record of this case was formally closed by Order, FCC 00M-52, released August 18, 2000. The first two could thus have been filed even before the record herein was closed . . . if RBI had thought that those pleadings were sufficiently relevant and material for inclusion in the record. But RBI did not do so. Instead, it waited until October 27 to file them.

5. The closest that RBI comes to explaining its lethargy is Footnote 1 to the Statement, which reads in its entirety as follows:

[RBI] would have submitted these pleadings previously, but counsel was focused on preparing its initial brief and its reply brief in this case.

It is difficult to take this seriously, since the Statement consists of less than two pages of text, with virtually no analysis or discussion not previously presented by RBI or

Desert 31 in one pleading or another. No matter what counsel's other workload may have been, it is difficult to imagine that this Statement could not have been prepared at some point prior to October 27.

6. This is especially so inasmuch as the Statement is presumably intended to suggest that the pleadings which RBI attaches to the Statement are somehow germane to the disposition of this case. Why then didn't RBI mention the pleadings in its findings or reply findings? RBI was clearly aware of the pleadings in question long prior to the submission of RBI's findings and reply findings. The findings and reply findings afforded RBI the opportunity to set forth for the Presiding Judge's consideration ALL factors which should, in RBI's view, affect the result of this case. Since RBI made no mention in its findings or reply findings of the pleadings which RBI now seems to think may have some relevance here, there does not appear to be any reason now to include those pleadings in the record here.

7. Despite these considerations, all of which weigh in favor of rejecting RBI's Statement, Adams does not object to the Statement. The undeniable fact is that Adams has opposed Mr. Parker's application to assign Station KVMD(TV). The arguments advanced by Adams in its pleadings in that matter speak for themselves. They are without question consistent with the position which Adams has repeatedly taken in this proceeding: Mr. Parker has engaged in repeated misrepresentation and lack of candor before this agency, as a result of which he must be deemed

to be disqualified.

8. In its Statement RBI seems to argue that, because Adams (according to RBI) does not have standing to challenge the KVMD(TV) assignment, Adams's opposition to that assignment must be deemed to be intended to "exert pressure on [RBI] to settle this proceeding." RBI Statement at 2. But as clearly set out in the KVMD(TV) pleadings, Adams believes that it does have standing to oppose the KVMD(TV) application.

9. And even if Adams does not have standing, it believes that the issues it has raised are so significant that they can and must be considered by the Commission in any event. As Adams has repeatedly argued, Mr. Parker has engaged in misrepresentation and lack of candor in multiple applications relative to multiple stations, including Stations WTVE(TV) and KVMD(TV). Such misconduct erodes the regulatory process. Without the intervention of a whistle-blower such as Adams, Mr. Parker's unwillingness and/or inability to be truthful and fully forthcoming could easily escape the Commission's attention. After all, the insidious nature of misrepresentation and lack of candor is that the misconduct is designed to prevent the


Commission from learning the full truth.^{1/} In this regard Adams serves as a private attorney-general, assisting the Commission to protect the integrity of its processes. Private attorneys-general such as Adams have long been recognized as an important element in the Commission's regulatory mission. E.g., Office of Communication of United Church of Christ v. FCC, 359 F.2d 994, 1003 (D.C. Cir. 1966); 1998 Biennial Review, 13 FCC Rcd 23056, 23064 (¶18) (1998).

10. Finally, RBI's suggestion that Adams's pleadings are intended to "exert pressure" on RBI is nothing more than phenomenally speculative and self-serving fantasy. As Adams has repeatedly stated, Adams has no desire or intention to settle this proceeding. Adams is not trying to "exert pressure" on RBI to settle. There is absolutely no basis for RBI's claim. Indeed, that claim is inconsistent with the record evidence, which establishes that the only settlement-related communications involving RBI and Adams (other than the Bureau-mandated settlement conversations in mid-1999) occurred when RBI

^{1/} That is what happened in 1991-1992, when the staff, unaware of the full extent of Mr. Parker's misconduct, granted several of his applications. Once the full Commission had been alerted to that misconduct, the Commission made clear that Mr. Parker had "serious questions" exist concerning Mr. Parker's qualifications. Two If By Sea Broadcasting Corporation, 12 FCC Rcd 2254 (1997). which would preclude the routine grant of his then-pending application. In that decision, the Commission also expressly confirmed that the Review Board had, in Religious Broadcasting Network, 3 FCC Rcd 4090 (1988), "upheld the disqualification" of Mr. Parker's application in that case. Id. at 2257. This, of course, clearly contradicts Mr. Parker's continued efforts to claim that he somehow thought that the Review Board there had absolved him of any serious wrong-doing.

approached Adams with a settlement proposal which Adams summarily rejected. That record flatly contradicts any notion that Adams is attempting to pressure RBI to settle.

Respectfully submitted,


/s/ Harry F. Cole
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November 3, 2000


CERTIFICATE OF SERVICE

I hereby certify that, on this 3rd day of November, 2000, I caused copies of the foregoing "Response of Adams Communications Corporation to "Statement for the Record" to be hand delivered (as indicated below), addressed to the following:

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